

# Calendar No. 599

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2798

[Report No. 111–313]

To reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2009

Mr. UDALL of Colorado (for himself, Mr. RISCH, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 27, 2010

Reported by Mr. BINGAMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

To reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Forest Insect  
3 and Disease Emergency Act of 2009”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are—

6 (1) to ensure that adequate emphasis is placed  
7 on the mitigation of hazards posed by large-scale in-  
8 festations of bark beetles and other insects through  
9 the establishment of insect and disease emergency  
10 areas;

11 (2) to ensure that increased resources are avail-  
12 able within each designated insect and disease emer-  
13 gency area to mitigate hazards associated with—

14 (A) falling trees;

15 (B) increased fire hazards; and

16 (C) the restoration of National Forest Sys-  
17 tem land; and

18 (3) to make permanent, as of the date of enact-  
19 ment of this Act, existing good neighbor and stew-  
20 ardship contracting authorities.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) **AFFECTED STATE.**—The term “affected  
24 State” includes each of the States of—

25 (A) Arizona;

26 (B) California;

- 1           ~~(C) Colorado;~~
- 2           ~~(D) Idaho;~~
- 3           ~~(E) Montana;~~
- 4           ~~(F) Nevada;~~
- 5           ~~(G) New Mexico;~~
- 6           ~~(H) Oregon;~~
- 7           ~~(I) South Dakota;~~
- 8           ~~(J) Utah;~~
- 9           ~~(K) Washington; and~~
- 10          ~~(L) Wyoming.~~

11           ~~(2) INSECT AND DISEASE EMERGENCY AREA.—~~

12           ~~The term “insect and disease emergency area”~~  
 13           ~~means an area of National Forest System land—~~

14           ~~(A) that is located in an affected State~~  
 15           ~~that is not—~~

- 16                   ~~(i) designated as wilderness; or~~
- 17                   ~~(ii) an area recommended for wilder-~~  
 18                   ~~ness in a forest land and resource manage-~~  
 19                   ~~ment plan;~~

20           ~~(B) in which an insect and disease infesta-~~  
 21           ~~tion emergency exists; as determined by the~~  
 22           ~~Secretary; and~~

23           ~~(C) that is designated by—~~

- 24                   ~~(i) section 4(a); or~~
- 25                   ~~(ii) the Secretary under section 4(c).~~

1           ~~(3) INSECT AND DISEASE INFESTATION EMER-~~  
 2           ~~GENCY.—~~The term “insect and disease infestation  
 3           ~~emergency”~~ means an insect or disease infestation  
 4           ~~that has resulted in—~~

5                     ~~(A) a current or future increased risk of~~  
 6                     ~~catastrophic wildland fire; or~~

7                     ~~(B) an increased threat posed by hazard~~  
 8                     ~~trees to—~~

- 9                             ~~(i) utility corridors;~~
- 10                            ~~(ii) communication sites;~~
- 11                            ~~(iii) roads;~~
- 12                            ~~(iv) recreation sites;~~
- 13                            ~~(v) water structures (such as res-~~  
 14                            ~~ervoirs and water conveyance systems); or~~
- 15                            ~~(vi) other infrastructure.~~

16           ~~(4) MAP.—~~The term “map” means the map en-  
 17           ~~titled “Insect Emergency Areas”.~~

18           ~~(5) NATIONAL FOREST SYSTEM.—~~The term  
 19           ~~“National Forest System”~~ has the meaning given  
 20           ~~the term in section 11(a) of the Forest and Range-~~  
 21           ~~land Renewable Resources Planning Act of 1974 (16~~  
 22           ~~U.S.C. 1609(a)).~~

23           ~~(6) SECRETARY.—~~The term “Secretary” means  
 24           ~~the Secretary of Agriculture.~~

1 **SEC. 4. DESIGNATION OF INSECT AND DISEASE EMER-**  
 2 **GENCY AREAS.**

3 (a) DESIGNATION.—Each area depicted on the map  
 4 is designated as an insect and disease emergency area  
 5 under this Act.

6 (b) MAP.—

7 (1) DUTY OF SECRETARY.—As soon as prac-  
 8 ticable after the date of enactment of this Act, the  
 9 Secretary shall file the map for insect and disease  
 10 emergency areas designated by subsection (a) with—

11 (A) the Committee on Energy and Natural  
 12 Resources of the Senate;

13 (B) the Committee on Agriculture, Nutri-  
 14 tion, and Forestry of the Senate;

15 (C) the Committee on Natural Resources  
 16 of the House of Representatives; and

17 (D) the Committee on Agriculture of the  
 18 House of Representatives.

19 (2) FORCE OF LAW.—The map filed under  
 20 paragraph (1) shall have the same force and effect  
 21 as if included in this subsection, except that the Sec-  
 22 retary may correct typographical errors in the map  
 23 and the legal descriptions.

24 (3) PUBLIC AVAILABILITY.—The map filed  
 25 under paragraph (1) shall be on file and available

1 for public inspection in the appropriate offices of the  
2 Forest Service.

3 ~~(c) DESIGNATION BY SECRETARY.—~~

4 (1) IN GENERAL.—The Secretary may des-  
5 ignate additional insect and disease emergency areas  
6 in accordance with each requirement described in  
7 this subsection.

8 (2) INITIATION.—The designation of an insect  
9 and disease emergency area may be made by the  
10 Secretary—

11 (A) on the initiative of the Secretary; or

12 (B) in response to a request by any Gov-  
13 ernor of an affected State.

14 (3) DEADLINE.—If the Governor of a State de-  
15 scribed in paragraph (2)(B) requests the Secretary  
16 to designate as an insect and disease emergency area  
17 an area located in the State, the Secretary shall ac-  
18 cept or deny the request by a date that is not later  
19 than 90 days after the date on which the Secretary  
20 receives the request.

21 (4) LIMITATION ON DELEGATION.—With re-  
22 spect to National Forest System land, the Secretary,  
23 acting through the Chief of the Forest Service, may  
24 delegate the authority to make a designation under

1       this subsection only to a Regional Forester of the  
2       National Forest System land.

3           ~~(5) PROCEDURE.—~~If the Secretary designates  
4       an additional insect and disease emergency area  
5       under paragraph (1), the Secretary shall—

6           ~~(A)~~ publish a notice of the designation of  
7       the insect and disease emergency area (includ-  
8       ing a map of the insect and disease emergency  
9       area) in the Federal Register; and

10          ~~(B)~~ notify—

11               (i) each appropriate State; and

12               (ii) the appropriate committees of  
13       Congress.

14          ~~(6) APPLICABILITY.—~~A designation made by  
15       the Secretary under paragraph (1) shall not be sub-  
16       ject to—

17           ~~(A)~~ the National Environmental Policy Act  
18       of 1969 (~~42 U.S.C. 4321~~ et seq.);

19           ~~(B)~~ section 322 of the Department of the  
20       Interior and Related Agencies Appropriations  
21       Act, 1999 (Public Law 105–277; 112 Stat.  
22       2681–289); or

23           ~~(C)~~ any other applicable law (including  
24       regulations).

1 **SEC. 5. RESPONSE TO EMERGENCY DESIGNATION.**

2 (a) **PRIORITY TREATMENTS.**—In carrying out the  
3 management of an insect and disease emergency area, the  
4 Secretary shall give priority consideration to—

5 (1) the removal of hazardous fuels and hazard  
6 trees on, and the restoration of the health of, Na-  
7 tional Forest System land located in the insect and  
8 disease emergency area; and

9 (2) the provision of assistance to State and  
10 local governments, Indian tribes, and private land-  
11 owners for the removal of hazardous fuels and haz-  
12 ard trees on, and the restoration of the health of,  
13 each parcel of land located in the insect and disease  
14 emergency area—

15 (A) that is under the jurisdiction of the  
16 State or local government or Indian tribe; or

17 (B) the title of which is held by a private  
18 landowner; and

19 (3) the making of payments under section  
20 9011(d)(1)(B) of the Farm Security and Rural In-  
21 vestment Act of 2002 (7 U.S.C. 8111(d)(1)(B)) to  
22 each individual or entity that collects or harvests re-  
23 newable biomass from a parcel of National Forest  
24 System land located in an insect and disease emer-  
25 gency area.



1       (b) ~~EMERGENCY FOREST RESTORATION.~~—In imple-  
 2     menting the emergency forest restoration program under  
 3     section 407 of the Agricultural Credit Act of 1978 (16  
 4     U.S.C. 2206), the Secretary may make payments to an  
 5     owner of a parcel of nonindustrial private forest land that  
 6     is located in an insect and disease emergency area to carry  
 7     out emergency measures in response to an insect and dis-  
 8     ease infestation emergency under this Act.

9       (c) ~~BIOMASS.~~—Any biomass removed from a parcel  
 10    of land located in an insect and disease emergency area  
 11    shall be considered to be renewable biomass for purposes  
 12    of the renewable fuel standard under section 211(o) of the  
 13    Clean Air Act (42 U.S.C. 7545(o)).

14    (d) ~~HEALTHY FOREST RESTORATION.~~—

15       (1) ~~AUTHORITY OF SECRETARY.~~—The Sec-  
 16    retary may apply each requirement described in sec-  
 17    tions 104 and 105 of the Healthy Forests Restora-  
 18    tion Act of 2003 (16 U.S.C. 6514, 6515) to projects  
 19    that are carried out to remove hazardous fuels and  
 20    hazard trees on, and to restore the health of, Na-  
 21    tional Forest System land that is located in an in-  
 22    sect and disease emergency area.

23       (2) ~~JUDICIAL REVIEW.~~—Section 106 of the  
 24    Healthy Forests Restoration Act of 2003 (16 U.S.C.

1       6516) shall apply to each project described in para-  
 2       graph (1).

3   **SEC. 6. GOOD NEIGHBOR AUTHORITY.**

4       (a) STATE FOREST SERVICES.—

5           (1) AUTHORITY OF SECRETARY.—Notwith-  
 6       standing chapter 63 of title 31, United States Code,  
 7       and any provisions of law related to competition, the  
 8       Secretary may enter into a contract (including a sole  
 9       source contract) or agreement (including an agree-  
 10      ment for the mutual benefit of the Secretary and the  
 11      State), as appropriate and consistent with all appli-  
 12      cable general and specific operating procedures es-  
 13      tablished by the Forest Service for such contracts  
 14      and agreements (including labor and wage require-  
 15      ments), with a State to permit the State to perform  
 16      watershed restoration and protection services on Na-  
 17      tional Forest System land located in the State if the  
 18      State is carrying out similar and complementary wa-  
 19      tershed restoration and protection services on adja-  
 20      cent State or private land.

21          (2) AUTHORIZED SERVICES.—Watershed res-  
 22      toration and protection services described in para-  
 23      graph (1) include—

24           (A) the treatment of insect-infested trees;

25           (B) the reduction of hazardous fuels; and

1           (C) any other activity that is carried out to  
 2           restore or improve watersheds or fish and wild-  
 3           life habitat across ownership boundaries.

4       (b) ADMINISTRATIVE PROVISIONS.—

5           (1) NATIONAL FOREST MANAGEMENT ACT OF  
 6       1976.—Subsections (d) and (g) of section 14 of the  
 7       National Forest Management Act of 1976 (16  
 8       U.S.C. 472a) shall not apply to services performed  
 9       under a contract or other agreement under sub-  
 10      section (a)(1).

11          (2) ASSUMPTION OF LIABILITY.—The State  
 12      shall assume liability, to the extent allowed by Fed-  
 13      eral, State, and local law, for the actions or omis-  
 14      sions of employees or subcontractors of the State in  
 15      preparing or implementing a contract or agreement  
 16      under this title.

17          (3) SUBCONTRACTS.—A State may subcontract,  
 18      to the extent allowed by State and local law, to pre-  
 19      pare or implement a contract or agreement under  
 20      this title.

21          (4) DISPUTE RESOLUTION.—Any dispute under  
 22      a contract or agreement under subsection (a)(1)  
 23      shall be resolved in accordance with, as applicable—

24           (A) the dispute clause of the contract or  
 25      agreement;

1                   (B) the Contract Disputes Act of 1978 (41  
2                   U.S.C. 601 et seq.); or

3                   (C) section 1491 of title 28, United States  
4                   Code.

5           (e) RETENTION OF RESPONSIBILITIES UNDER NA-  
6   TIONAL ENVIRONMENTAL POLICY ACT OF 1969.—With  
7   respect to any watershed restoration and protection serv-  
8   ice on National Forest System land that is proposed to  
9   be carried out by a State under subsection (a), any deci-  
10   sion required to be made under the National Environ-  
11   mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may  
12   not be delegated to the State or any officer or employee  
13   of the State.

14           (d) APPLICABILITY.—

15           (1) IN GENERAL.—Subject to paragraph (2),  
16           the authority provided by this section applies only to  
17           National Forest System land located in affected  
18           States.

19           (2) SECRETARY OF THE INTERIOR.—With re-  
20           spect to public land that is located in an affected  
21           State and administered by the Secretary of the Inte-  
22           rior (acting through the Bureau of Land Manage-  
23           ment), the Secretary of the Interior may carry out  
24           activities under this section on the public land.

1 **SEC. 7. STEWARDSHIP CONTRACTING.**

2 ~~(a) CANCELLATION COSTS.—~~

3 ~~(1) IN GENERAL.—~~Notwithstanding any other  
 4 provision of law, including section 304B of the Fed-  
 5 eral Property and Administrative Services Act of  
 6 1949 (41 U.S.C. 254c), the Secretary may not obli-  
 7 gate funds to cover the cost of canceling a Forest  
 8 Service multiyear stewardship contract under section  
 9 347 of the Department of the Interior and Related  
 10 Agencies Appropriations Act, 1999 (16 U.S.C. 2104  
 11 note; Public Law 105–277) until the date on which  
 12 the multiyear stewardship contract is cancelled.

13 ~~(2) COSTS OF CANCELLATION OR TERMI-~~  
 14 ~~NATION.—~~The costs of any cancellation or termi-  
 15 nation of a multiyear stewardship contract described  
 16 in paragraph (1) may be paid from any appropria-  
 17 tions that are made available to the Forest Service.

18 ~~(3) ANTI-DEFICIENCY ACT.—~~In the case in  
 19 which the appropriations described in paragraph (2)  
 20 are exhausted—

21 ~~(A)~~ the exhaustion shall not be considered  
 22 to be a violation of section 1341 of title 31,  
 23 United States Code; and

24 ~~(B)~~ the Secretary shall seek a supple-  
 25 mental appropriation.

1       (b) **PERMANENT AUTHORITY.**—Section 347(a) of the  
 2 Department of the Interior and Related Agencies Appro-  
 3 priations Act, 1999 (16 U.S.C. 2104 note; Public Law  
 4 105–277) is amended by striking “Until September 30,  
 5 2013, the” and inserting “The”.

6 **SEC. 8. EFFECT.**

7       Nothing in this Act affects or diminishes the rights  
 8 of any owner of private property.

9 **SECTION 1. SHORT TITLE.**

10       *This Act may be cited as the “National Forest Insect*  
 11 *and Disease Emergency Act of 2010”.*

12 **SEC. 2. PURPOSES.**

13       *The purposes of this Act are—*

14               (1) *to ensure that adequate emphasis is placed*  
 15 *on the mitigation of hazards posed by landscape-scale*  
 16 *epidemics of bark beetles and other insects and dis-*  
 17 *eases through the identification of areas affected by*  
 18 *the epidemics, including areas in which resulting haz-*  
 19 *ard trees pose a high risk to public health and safety;*

20               (2) *to help focus resources within areas charac-*  
 21 *terized by landscape-scale insect or disease epidemics*  
 22 *to mitigate hazards associated with—*

23                       (A) *falling trees; and*

24                       (B) *wildfire; and*

1           (3) *to authorize good neighbor agreements be-*  
 2           *tween State and Federal agencies to provide more ef-*  
 3           *fective and efficient forest management across certain*  
 4           *Federal land boundaries.*

5 **SEC. 3. DEFINITIONS.**

6           *In this Act:*

7           (1) *AFFECTED STATE.*—*The term “affected*  
 8           *State” includes each of the States of—*

- 9                     *(A) Alaska;*
- 10                    *(B) Arizona;*
- 11                    *(C) California;*
- 12                    *(D) Colorado;*
- 13                    *(E) Idaho;*
- 14                    *(F) Montana;*
- 15                    *(G) Nevada;*
- 16                    *(H) New Mexico;*
- 17                    *(I) Oregon;*
- 18                    *(J) South Dakota;*
- 19                    *(K) Utah;*
- 20                    *(L) Washington; and*
- 21                    *(M) Wyoming.*

22           (2) *HIGH-RISK AREA.*—*The term “high-risk*  
 23           *area” means a road, trail, or other area that poses a*  
 24           *high risk to public health or safety due to hazard trees*

1       *resulting from landscape-scale tree mortality caused*  
 2       *by an insect or disease epidemic.*

3           (3) *INSECT OR DISEASE EPIDEMIC AREA.*—*The*  
 4       *term “insect or disease epidemic area” means an area*  
 5       *of National Forest System land in which landscape-*  
 6       *scale tree mortality caused by an insect or disease*  
 7       *epidemic exists.*

8           (4) *NATIONAL FOREST SYSTEM.*—*The term “Na-*  
 9       *tional Forest System” has the meaning given the term*  
 10      *in section 11(a) of the Forest and Rangeland Renew-*  
 11      *able Resources Planning Act of 1974 (16 U.S.C.*  
 12      *1609(a)).*

13          (5) *SECRETARY.*—*The term “Secretary” means*  
 14      *the Secretary of Agriculture.*

15   **SEC. 4. DESIGNATION OF AREAS.**

16      (a) *IDENTIFICATION OF HIGH-RISK AREAS.*—

17          (1) *IN GENERAL.*—*As soon as practicable after*  
 18      *the date of enactment of this Act, the Secretary shall*  
 19      *identify by map or other appropriate means high-risk*  
 20      *areas within the National Forest System in the af-*  
 21      *ected States.*

22          (2) *PUBLIC EDUCATION.*—*In conjunction with*  
 23      *the information developed pursuant this subsection,*  
 24      *the Secretary shall develop educational materials that*  
 25      *describe the risk posed by hazard trees in high-risk*



1        *areas and measures that can be taken by the public*  
 2        *to avoid or reduce that risk.*

3            (3) *CONSULTATION.*—*In developing the informa-*  
 4        *tion and educational materials required by this sub-*  
 5        *section, the Secretary shall consult with interested*  
 6        *State, local, and tribal governments, first responders,*  
 7        *and other stakeholders.*

8            (4) *UPDATES.*—*The Secretary shall periodically*  
 9        *review and revise the information and educational*  
 10       *materials required by this subsection to reflect the best*  
 11       *available information.*

12           (5) *PUBLIC AVAILABILITY.*—*The information and*  
 13        *associated educational materials required by this sub-*  
 14        *section shall be on file and available for public in-*  
 15        *spection, including in the appropriate offices of the*  
 16        *Forest Service.*

17        (b) *IDENTIFICATION OF INSECT AND DISEASE EPI-*  
 18        *DEMIC AREAS.*—

19           (1) *IN GENERAL.*—*As soon as practicable after*  
 20        *the date of enactment of this Act, the Secretary shall*  
 21        *identify by map or other appropriate means insect or*  
 22        *disease epidemic areas within the National Forest*  
 23        *System in the affected States.*

24           (2) *REQUIRED INFORMATION.*—*The information*  
 25        *required by paragraph (1) shall include—*

1           (A) a geographic estimate of the annual  
2           mortality caused by the insect or disease epi-  
3           demic; and

4           (B) a projection, based on the best available  
5           science, of future tree mortality resulting from  
6           the insect or disease epidemic.

7           (3) *UPDATES.*—The Secretary shall periodically  
8           review and revise the information required by para-  
9           graph (1) to reflect the best available information.

10          (4) *AVAILABILITY.*—The information required by  
11          this subsection shall be made available to—

12           (A) communities in or adjacent to an insect  
13           or disease epidemic area that have developed a  
14           community wildfire protection plan (as defined  
15           in section 101 of the *Healthy Forests Restoration*  
16           *Act of 2003* (16 U.S.C. 6511));

17           (B) fire departments and other wildfire-  
18           fighting organizations responding to, or likely to  
19           respond to, a wildfire in an insect or disease epi-  
20           demic area; and

21           (C) the public through the appropriate of-  
22           fices of the Forest Service.

23          (c) *CONTRACTS AND FINANCIAL ASSISTANCE.*—To help  
24          collect, develop, monitor, and distribute the information  
25          and materials required by this section, the Secretary may

1 *enter into contracts or provide financial assistance through*  
 2 *cooperative agreements in accordance with section 8 of the*  
 3 *Cooperative Forestry Assistance Act of 1978 (16 U.S.C.*  
 4 *2104) with—*

5 *(1) the State Forester or equivalent State official*  
 6 *of an affected State;*

7 *(2) educational institutions; or*

8 *(3) other organizations.*

9 **SEC. 5. SUPPORT FOR RESTORATION AND RESPONSE.**

10 *(a) SUPPORT FOR BIOMASS UTILIZATION.—To help*  
 11 *reduce the risk to public health and safety from hazard trees*  
 12 *and wildfires and to restore ecosystems affected by insect*  
 13 *and disease epidemics, the Secretary may assist State and*  
 14 *local governments, Indian tribes, private landowners, and*  
 15 *other persons in affected States with the collection, harvest,*  
 16 *storage, and transportation of eligible material from areas*  
 17 *identified pursuant to section 4(b) in accordance with sec-*  
 18 *tion 9011(d) of the Farm Security and Rural Investment*  
 19 *Act of 2002 (7 U.S.C. 8111(d)).*

20 *(b) RESTORATION ASSISTANCE FOR PRIVATE LAND-*  
 21 *OWNERS.—The Secretary may make payments to an owner*  
 22 *of nonindustrial private forest land in an affected State to*  
 23 *carry out emergency measures to restore the land after an*  
 24 *insect or disease infestation in accordance with the emer-*

1 *gency forest restoration program established under section*  
 2 *407 of the Agricultural Credit Act of 1978 (16 U.S.C. 2206).*

3       (c) *NATIONAL FOREST HAZARDOUS FUEL REDUC-*  
 4 *TION.—The Secretary shall carry out authorized hazardous*  
 5 *fuel reduction projects in affected States on National Forest*  
 6 *System land on which an epidemic of disease or insects*  
 7 *poses a significant threat to an ecosystem component, or*  
 8 *forest or rangeland resource, in accordance with the*  
 9 *Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501*  
 10 *et seq.).*

11 **SEC. 6. GOOD NEIGHBOR AUTHORITY.**

12       (a) *DEFINITIONS.—In this section:*

13               (1) *AUTHORIZED RESTORATION SERVICES.—The*  
 14 *term “authorized restoration services” means similar*  
 15 *and complementary forest, rangeland, and watershed*  
 16 *restoration services carried out on adjacent Federal*  
 17 *land and non-Federal land by either the Secretary or*  
 18 *a Governor pursuant to—*

19                       (A) *a good neighbor agreement; and*

20                       (B) *a cooperative agreement or contract en-*  
 21 *tered into under subsection (c).*

22       (2) *FEDERAL LAND.—*

23               (A) *IN GENERAL.—The term “Federal land”*  
 24 *means the following land in a State located in*  
 25 *whole or in part west of the 100th meridian:*

1                   (i) *National Forest System land.*

2                   (ii) *Public lands (as defined in section*  
3 *103 of the Federal Land Policy and Man-*  
4 *agement Act of 1976 (43 U.S.C. 1702)).*

5                   (B) *EXCLUSIONS.—The term “Federal*  
6 *land” does not include—*

7                   (i) *a component of the National Wil-*  
8 *derness Preservation System, National Wild*  
9 *and Scenic Rivers System, National Trails*  
10 *System, or National Landscape Conserva-*  
11 *tion System;*

12                   (ii) *a National Monument, National*  
13 *Preserve, National Scenic Area, or National*  
14 *Recreation Area; or*

15                   (iii) *a wilderness study area.*

16                   (3) *FOREST, RANGELAND, AND WATERSHED RES-*  
17 *TORATION SERVICES.—The term “forest, rangeland,*  
18 *and watershed restoration services” means—*

19                   (A) *activities to treat insect- and disease-in-*  
20 *fectured trees;*

21                   (B) *activities to reduce hazardous fuels;*

22                   (C) *activities to maintain roads and trails*  
23 *that cross a boundary between Federal land and*  
24 *non-Federal land; and*

1           (D) *any other activities to restore or im-*  
 2           *prove forest, rangeland, or watershed health, in-*  
 3           *cluding fish and wildlife habitat.*

4           (4) *GOOD NEIGHBOR AGREEMENT.*—*The term*  
 5           *“good neighbor agreement” means—*

6           (A) *a nonfunding master cooperative agree-*  
 7           *ment entered into between the Secretary and a*  
 8           *Governor under chapter 63 of title 31, United*  
 9           *States Code; or*

10          (B) *a memorandum of agreement or under-*  
 11          *standing entered into between the Secretary and*  
 12          *a Governor.*

13          (5) *GOVERNOR.*—*The term “Governor” means*  
 14          *the Governor or any other appropriate executive offi-*  
 15          *cial of an affected State.*

16          (6) *SECRETARY.*—*The term “Secretary”*  
 17          *means—*

18          (A) *the Secretary of Agriculture, with re-*  
 19          *spect to National Forest System land; and*

20          (B) *the Secretary of the Interior, with re-*  
 21          *spect to Bureau of Land Management land.*

22          (b) *GOOD NEIGHBOR AGREEMENTS.*—

23          (1) *IN GENERAL.*—*The Secretary may enter into*  
 24          *a good neighbor agreement with a Governor to coordi-*  
 25          *nate the procurement and implementation of author-*

1        *ized restoration services in accordance with this sec-*  
 2        *tion.*

3            (2) *PUBLIC NOTICE AND COMMENT.*—*The Sec-*  
 4        *retary shall make each good neighbor agreement*  
 5        *available to the public.*

6        (c) *TASK ORDERS, CONTRACTS, AND COOPERATIVE*  
 7        *AGREEMENTS.*—

8            (1) *IN GENERAL.*—*The Secretary may issue a*  
 9        *task order for, or enter into a contract (including a*  
 10       *sole source contract) or cooperative agreement with, a*  
 11       *Governor to carry out authorized restoration services.*

12           (2) *REQUIREMENTS.*—*Each task order, contract,*  
 13        *or cooperative agreement entered into under para-*  
 14        *graph (1) shall be executed in accordance with—*

15           (A) *chapter 63 of title 31, United States*  
 16        *Code; and*

17           (B) *the applicable good neighbor agreement.*

18        (d) *CONTRACT AND SUBCONTRACT REQUIREMENTS.*—

19           (1) *REQUIREMENTS FOR SERVICES ON FEDERAL*  
 20        *LAND.*—

21           (A) *IN GENERAL.*—*For authorized restora-*  
 22        *tion services carried out on Federal land under*  
 23        *subsection (c), each contract and subcontract*  
 24        *issued under the authority of a Governor shall*  
 25        *include the provisions described in subparagraph*

(B) that would have been included in the contract had the Secretary been a party to the contract.

(B) *APPLICABLE PROVISIONS.*—The provisions referred to in subparagraph (A) are provisions for—

(i) wages and benefits for workers employed by contractors and subcontractors required by—

(I) subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code; and

(II) chapter 6 of title 41, United States Code;

(ii) nondiscrimination; and

(iii) worker safety and protection.

(2) *REQUIREMENTS FOR SMALL BUSINESSES.*—Each contract and subcontract for authorized restoration services under subsection (c) shall comply with provisions for small business assistance and protection that would have been applicable to the contract had the Secretary been a party to the contract.

(3) *LIABILITY.*—The Secretary shall include provisions in each good neighbor agreement, contract, or cooperative agreement, as appropriate, governing the



1     *potential liability of the State and the Secretary for*  
 2     *actions carried out under this Act.*

3     *(e) TERMINATION OF EFFECTIVENESS.—*

4             *(1) IN GENERAL.—The authority of the Secretary*  
 5     *to enter into cooperative agreements and contracts*  
 6     *under this section terminates on September 30, 2019.*

7             *(2) CONTRACT DATE.—The termination date of a*  
 8     *cooperative agreement or contract entered into under*  
 9     *this section shall not extend beyond September 30,*  
 10    *2020.*

11            *(3) CONSOLIDATED AUTHORITY.—*

12                *(A) FEDERAL AND STATE COOPERATIVE WA-*  
 13     *TERSHERD RESTORATION AND PROTECTION IN*  
 14     *COLORADO.—Section 331 of the Department of*  
 15     *the Interior and Related Agencies Appropria-*  
 16     *tions Act, 2001 (Public Law 106–291; 114 Stat.*  
 17     *996) is repealed.*

18                *(B) FEDERAL AND STATE COOPERATIVE*  
 19     *FOREST, RANGELAND, AND WATERSHERD RES-*  
 20     *TORATION IN UTAH.—Section 337 of the Depart-*  
 21     *ment of the Interior and Related Agencies Ap-*  
 22     *propriations Act, 2005 (Public Law 108–447;*  
 23     *118 Stat. 3102) is repealed.*

24            *(4) EXISTING CONTRACTS.—Nothing in the*  
 25     *amendments made by this section affects contracts in*

1       *effect on the day before the date of enactment of this*  
2       *Act.*

3   **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

4       *There are authorized to be appropriated to carry out*  
5   *this Act such sums as are necessary.*



Calendar No. 599

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 2798**

[Report No. 111-313]

**A BILL**

To reduce the risk of catastrophic wildfire through the facilitation of insect and disease infestation treatment of National Forest System and adjacent land, and for other purposes.

SEPTEMBER 27, 2010

Reported with an amendment